IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

LA.App..No. 60 of 2004(D)

LAR.198/2000 of PRL.SUB COURT, KOZHIKODE
.....

APPELLANT: RESPONDENT:-

STATE OF KERALA.

BY GOVERNMENT PLEADER SHRI.K.V.MANOJ.
ADVOCATE GENERAL

RESPONDENT: CLAIMANT:-

C.T.MUSTHAFA, C.T.HOUSE, KUTTICHIRA,
CALICUT.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
SMT.T.RESMI DAMODARAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ALONG WITH LAA.No.165/2004 AND OTHER CONNECTED CASES ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON IA.No.310 of 2007 in LAA.No.60 of 2004.

DISMISSED.

9-7-2007. **Sd/- Kurian Joseph, Judge.**

Sd/- T.R.Ramachandran Nair, Judge.

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kvs/-

P.A. To Judge.

KURIAN JOSEPH,

&

T.R.RAMACHANDRAN NAIR, JJ.

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LAA.Nos.60, 165, 214, 1053 of 2004
&
LAA.Nos.291 & 461 of 2005.

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Dated this the 9th day of July, 2007.

J U D G M E N T

T.R.Ramachandran Nair, J.

These appeals arise from the judgment in LAR.Nos.198/2000, 48/1998, 214/2000, 194/2000, 218/2000 and 215/2000 of the Subordinate Judge's Court, Kozhikode. The properties were acquired as per Section 4(1) notification published on 26-11-1993. As per the award, the land value fixed is at the rate of Rs.41,850.61 per cent. The claimants claimed enhanced compensation at the rate of Rs.2 lakhs per cent citing the importance of the locality in which the acquired land is situated. The evidence before the court was mainly Ext.C1 commissioner's report which has been prepared without reference to any comparable sale deeds or other relevant materials. Apart from the same the judgment in LAR.No.308/1997 was also relied upon and the

property therein was acquired for the same purpose. We have allowed, by a separate judgment LAA.No.1137/2000 filed against the judgment and decree in LAR.No.308/1997 and the cases have been remanded for fresh disposal in accordance with law.

2. In a reference under Section 18, the court below has to fix the market value on the basis of the evidence adduced by the parties. The endeavour should be to arrive at a just and fair compensation. The well established method is by comparing land value reflected in similar transactions. The potential value of the land can also be assessed by relevant materials. But herein the claimants have not made any effective attempts by producing sale deeds which would reflect the market value of the land acquired at the time of acquisition. Therefore, the market value now fixed is on the basis of a commission report which, as we have pointed out earlier, is also not based on an assessment of any relevant materials. Therefore, the value now fixed by the court below is only on the basis of guess work alone which is impermissible in law.

3. Since in these cases, the compensation has been enhanced based on the judgment in LAR.No.308/1997, we set aside the judgments in these

cases also and remand the matter for fresh disposal in accordance with law. The parties will be allowed to adduce fresh evidence. No costs.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-